

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	:	<b>CRIMINAL NO. 1:13-CR-128</b>
	:	
v.	:	<b>(Chief Judge Conner)</b>
	:	
<b>CHARLIE RIVERA,</b>	:	
	:	
<b>Petitioner</b>	:	

**ORDER**

AND NOW, this 21st day of June, 2018, upon consideration of the motion (Doc. 91) filed by petitioner Charlie Rivera (“Rivera”) for enlargement of time, reconsideration, and relief pursuant to Federal Rule of Civil Procedure 60(b)(6), wherein Rivera invokes the Supreme Court’s February 21, 2018 decision in Class v. United States, 583 U.S. \_\_\_, 138 S. Ct. 798 (2018), and further upon consideration of the government’s response (Doc. 95) in opposition, and the court observing that to the extent Class constitutes an intervening change in the law, in which a “guilty plea by itself” does not bar a federal criminal defendant “from challenging the constitutionality of the statute of conviction on direct appeal,” Class, 138 S. Ct. at 803, Rivera’s motion fails under either the Rule 60(b) or reconsideration standard, see FED. R. CIV. P. 60(b); Max’s Seafood Café v. Quinteros, 176 F.3d 669, 677-78 (3d Cir. 1999), because Class has no bearing on Rivera’s claim as styled, in that Rivera does not aver that trial counsel failed to file a direct appeal challenging the constitutionality of 21 U.S.C. § 841 due to his guilty plea, but instead avers that trial counsel was ineffective in failing to consult with and advise Rivera regarding the constitutionality of 21 U.S.C. § 841 and in failing to pursue appropriate action, (see

Doc. 89 at 4-9), it is hereby ORDERED that Rivera's motion (Doc. 91) for enlargement of time, reconsideration, and relief pursuant to Federal Rule of Civil Procedure 60(b)(6) is DENIED.

/S/ CHRISTOPHER C. CONNER  
Christopher C. Conner, Chief Judge  
United States District Court  
Middle District of Pennsylvania